

Summary of SC95514, *State ex rel. Norfolk Southern Railway Company v. The Honorable Colleen Dolan*

Proceeding originating in St. Louis County, Judge Colleen Dolan

Argued and submitted September 29, 2016; opinion issued February 28, 2017

Attorneys: Norfolk Southern was represented by Kurt E. Reitz and Erik P. Lewis of Thompson Coburn LLP in Bellevue, Illinois, (618) 277-4700; and Booker T. Shaw of Thompson Coburn LLP in St. Louis, (314) 552-6000. Russell Parker was represented by Edward D. Robertson Jr., Anthony L. DeWitt and Mary D. Winter of Bartimus, Frickleton and Robertson PC in Jefferson City, (573) 659-4454; and Eric Holland and Carl Kessinger of the Holland Law Firm in St. Louis, (314) 241-8111.

Two organizations filed briefs as friends of the Court. The Missouri Association of Trial Attorneys was represented by Michael W. Manners of Langdon & Emison LLC in Lexington, (660) 259-6175. Westar Energy Inc. was represented by John T. Bullock of Stevens & Brand LLP in Lawrence, Kansas, (785) 843-0811; and Charlie J. Harris and Kevin J. Karkpin of Seyferth Blumenthal & Harris in Kansas City, (816) 756-0700.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: An out-of-state railway corporation sued by an out-of-state employee for injuries that occurred outside Missouri seeks relief from the circuit court's determination that it could exercise jurisdiction over the railway in Missouri. In a 6-0 decision written by Judge Laura Denvir Stith, the Supreme Court of Missouri makes permanent its writ prohibiting the circuit court from exercising jurisdiction over the railway. The railway cannot be subject to general personal jurisdiction in Missouri courts because it is not incorporated in Missouri, does not have its principal place of business in Missouri and, essentially, is not "at home in Missouri. Further, it is not subject to specific personal jurisdiction in Missouri because the cause of action did not arise from its activities in Missouri. Compliance with Missouri's statute requiring registration of an agent to receive process does not constitute consent to personal jurisdiction.

Facts: Norfolk Southern Railway Company is a Virginia corporation with its principal place of business in Virginia. Russell Parker, an Indiana resident employed by Norfolk in Indiana, filed a personal injury lawsuit against Norfolk in St. Louis County under the federal employer's liability act. Norfolk asked the circuit court to dismiss the suit, arguing Missouri courts have no personal jurisdiction over it in this matter, which did not arise from Norfolk's activities in Missouri. The circuit court overruled the motion. Norfolk now seeks a writ of prohibition directing the circuit court to dismiss the lawsuit.

WRIT OF PROHIBITION MADE PERMANENT.

Court en banc holds: Missouri does not have jurisdiction over Norfolk. Norfolk is not incorporated in Missouri, does not have its principle place of business here and is not "at home" here. Missouri, therefore, does not have general jurisdiction over it. Further, Parker was injured

outside Missouri, and his claim has no connection with Missouri. Missouri, therefore, also does not have specific jurisdiction over this case. Such jurisdiction is not conferred merely because Norfolk conducts other business in Missouri or because it is sued and can sue in Missouri over matters connected to Missouri. Specific jurisdiction exists only when the claim arises out of the defendant's activities in Missouri, and that is not the case here. The fact that Parker's claim is brought under the federal act does not provide an independent basis for specific jurisdiction. The section of the act on which Parker relies is primarily a venue provision that also permits subject matter jurisdiction to be exercised concurrently in state and federal courts. Finally, Norfolk did not consent to jurisdiction merely by registering to do business here. Missouri's registration statutes do not constitute consent to any greater personal jurisdiction than otherwise would exist. To the extent any previous Missouri cases have suggested or held otherwise, they no longer should be followed.